COCHIN LEGISLATIVE COUNCIL PROCEEDINGS

OFFICIAL REPORT OF THE LEGISLATIVE SESSION OF 1120

Monday, *the* *4th December 1944* / *19th Vrischigam 1120*

The Council met in the Council Hall, Ernakulam, at half past Eleven of the Clock with the Hon'ble the President (Sir George Boag, K. C. I. E., C. S. I.) in the Chair.

Rao Sahib K.Ayyappan, Khan Sahib Ismail Hajee Essa Sait, Messrs. T.P. Poulose and V.K. Kutty were absent.

Swearing in of new members

Rao Sahib I. N. Menon and Khan Sahib Y. Muhammad Roshan Sahib Bahadur were sworn in.

QUESTIONS AND ANSWERS

FOOD ADULTERATION ACT—PROSECUTIONS UNDER

1. **Mr. T. A. Ramachandra Ayyar** *(Nellayi):* Will Government be pleased to state the number of cases convicted under the Food Adulteration Act within the Municipal areas of Ernakulam, Mattancheri and Irinjalakkuda in the years 1118 and 1119?

Mr. T. K. Nayar *(Minister for Rural Development):* No. of cases convicted under the Food Adulteration Act in the Municipal areas of—

	Ernakulam	Mattancheri	Irinjalakkuda
1118	nil	20	nil
1119	21	12	2

Mr. T. A. Ramachandra Ayyar *(Nellayi) :* Sir, I may kindly be permitted to put question Nos. 1, 2 and 3 together.

Mr. President : Yes.

2. **Mr. T. A. Ramachandra Ayyar** *(Nellayi):* Will Government be pleased to state the total number of cases charged under the Food Adulteration Act in Cochin during the years 1119 and 1120. Of these, how many were withdrawn, how many were acquitted, how many were convicted and how many are pending disposal?

Mr. T. K. Nayar *(Minister for Rural Development):* A statement containing the required information is appended. (Please see Appendix I).

3. **Mr. T. A. Ramachandra Ayyar** *(Nellayi):* Will Government be pleased to state whether the Sanitary Inspector of the Trichur Municipality prosecuted some of the merchants of Trichur Municipality according to the "Cochin Food Adulteration Act" in 1119 and 1120;

If, so the names of such persons and the Sections under which they were prosecuted. How was each case disposed of?

Mr. T. K. Nayar *(Minister for Rural Development):* Yes in 1119. There were no prosecutions under the Food Adulteration Act in 1120. Statement appended. (Please see Appendix II).

Mr. T. A. Ramachandra Ayyar *(Nellayi) :* Is not the Food Adulteration Act of Cochin a true copy of the Act in British India?

Mr. T. K. Nayar *(Minister for Rural Development) :* I understand that there were certain later amendments in the Madras Province. Those amendments have not been incorporated in our Act.

Mr. T. A. Ramachandra Ayyar *(Nellayi):* In Appendix 2 there are 17 names given. Of these six were withdrawn. May I know the financial position of these people whose cases were withdrawn.

Mr. President : Order, order. What has that got to do with the question?

Mr. T. A. Ramachandra Ayyar *(Nellayi) :* The poor people may not be able to conduct the cases but the others may be able to do it because of their money.

Mr. President : That is an insinuation on the part of the Hon'ble Member.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. T. A. Ramachandra Ayyar *(Nellayi)* : Sir, I find one V. V. Parameswara Ayyar was fined. He was charged under Rule 25 and section 4 (*d*) of the Act. All these persons whose cases were withdrawn were also charged for the same offence. May I know why some of these cases were withdrawn ?

Mr. President : If the Hon'ble Member will ask a straight question as to why those particular cases were withdrawn I will ask the Hon'ble Minister to answer it.

Mr. T. A. Ramachandra Ayyar *(Nellayi)*: I put that question.

Mr. President : The Hon'ble Member would have done well to put his question in this straight-forward manner.

Mr. T. A. Ramachandra Ayyar *(Nellayi)*: Sir, then I put the question why those cases were specially withdrawn.

Mr. T. K. Nayar *(Minister for Rural Development)* : These five persons put in a petition to the Government. Their request is this. " The request of the petitioners who are all wholesale General Merchants in Trichur is that the prosecution launched against them under the provisions of the Food Adulteration Act may be withdrawn. The petitioners are being prosecuted for stocking for sale certain brands of ghee manufactured by one Alagiriswami Naidu, Ernakulam, on the ground that the said brands are not up to the standard of purity prescribed. The case of the petitioners is that they did not in fact know that the brands which enjoyed a popularity in the market did not conform to the prescribed standard of purity and that it is hard to penalise them when no facilities are afforded to the public to ascertain whether the articles are up to the standard of purity or not. It is further pointed out that the petitioners had no ground for suspecting that the brands in question were not up to the standard of purity in view of the fact that no action had been taken against the manufacturer even though he is within the State itself. Lastly, the petitioners undertake not to stock hereafter any such ghee and request that a lenient and sympathetic view may be taken and that the prosecutions may be ordered to be withdrawn." Taking all the aspects into consideration the Government ordered the withdrawal of these prosecutions.

Mr. T.A. Ramachandra Ayyar *(Nellayi)* : Is not selling an adulterated article an offence?

Mr. T. K. Nayar *(Minister for Rural Development)* : It is.

Mr. T. A. Ramachandra Ayyar *(Nellayi)* : Then they did not know the law. Is that the reason for this withdrawal ?

Mr. M. Sivarama Menon *(Advocate-General)* : They did not know the fact that it was adulterated.

Mr. C.V. Iyyu *(Kunnamkulam)* : May I know whether there are not these words in section 4 (*d*) of the Act "Manufactures, or offers or exposes for sale". Did they not expose these articles for sale ?

Mr. T. K. Nayar *(Minister for Rural Development)* : It is a fact. There is a technical offence.

Mr. C. V. Iyyu *(Kunnamkulam)* : Is it a fact that the cases against Messrs. V. V. Parameswara Ayyar and A. M. Gopalakrishna Ayyar who had been charged for these offences were not withdrawn because they did not petition the Government ?

Mr. T. K. Nayar *(Minister for Rural Development)* : I do not know that. They did not any way petition the Government.

Mr. C. V. Iyyu *(Kunnamkulam)* : Supposing they had petitioned.....

Mr. President : Order, order. That is a hypothetical question.

Mr. A. Eachara Menon *(Chittur-Rural)* : Had these people appealed to the Municipal Council ?

Mr. T. K. Nayar *(Minister for Rural Development)* : I have no information.

Mr. A. Eachara Menon *(Chittur-Rural)* : Is that not the procedure to be adopted ?

Mr. M. Sivarama Menon *(Advocate-General)*: There is no appeal to the Municipal Council provided in the Act. The parties were prosecuted and the cases were ordered to be withdrawn. Under the Act the Commissioner of the Municipality is the Local Inspector under the Food Adulteration Act. It is only under the rules framed under the Act that the Commissioner is exercising his functions. It is only the Government or the Local Food Inspector that can initiate a prosecution.

Mr. C. V. Iyyu *(Kunnamkulam)* : May I know whether the parallel section in the Madras Act to our section 4 (*d*) has been recently amended.

Mr. T. K. Nayar *(Minister for Rural Development)* : I want notice.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. C. V. Iyyu *(Kunnamkulam)*: Certain sections in the Madras Act were amended. I would like to know whether those amendments have been effected here. Do not those sections relate to food?

Mr. M. Sivarama Menon *(Advocate-General)*: Section 4 (*d*) relates to ghee, butter, etc.

Mr. C. V. Iyyu *(Kunnamkulam)*: I want to know whether the section relating to exposure of ghee has been amended in Madras.

Mr. M. Sivarama Menon *(Advocate-General)*: I do not think it has been amended. There is no case that no offence has been committed by these people. Under section 394 of the Criminal Procedure Code it is left to the discretion of the Court to permit withdrawal of the prosecution or not when a motion is made in that behalf by the Public Prosecutor.

Mr. C. V. Iyyu *(Kunnamkulam)*: May I know why the Government interfered in these cases?

Mr. M. Sivarama Menon *(Advocate-General)*: That is a question of policy. If the Court is satisfied with the reasons adduced by the prosecution the Court will allow withdrawal of the prosecution.

Mr. V. K. Bhaskara Menon *(Cranganur)*: May I know why No. 7 was withdrawn? It is stated that that was a second offence.

Mr. T. K. Nayar *(Minister for Rural Development)*: At the time of the withdrawal of the prosecution when it was referred to the authorities concerned this fact was not brought to the notice of the Government and from the petition I find that there are two names in one and the same petition. Two persons were prosecuted in one case simultaneously. Perhaps the first case might have been against this Chirayath Inasu Porinju alone. In the case withdrawn I find two names.

Mr. A. B. Salem *(Mattancheri)*: May I know whether it is the same kind of offence or something else.

Mr. T. K. Nayar *(Minister for Rural Development)*: I want notice.

Mr. C. V. Iyyu *(Kunnamkulam)*: May I know whether the Government sought the advice of the Director of Public Health in this matter.

Mr. T. K. Nayar *(Minister for Rural Development)*: Yes.

Mr. C. V. Iyyn *(Kunnamkulam)*: May I know whether the Government was satisfied with the explanation given by him?

Mr. T. K. Nayar *(Minister for Rural Development)*: The Government took action.

Mr. C. V. Iyyu *(Kunnamkulam)*: Government is not the expert for it.

Mr. T. K. Nayar *(Minister for Rural Development)*: Government is the final authority.

Mr. C. V. Iyyu *(Kunnamkulam)*: Sir, this is a matter affecting the health of the humanity in this State. If the Director of Public Health here has gone wrong we ought to refer it to the Director of Public Health, Madras.

Mr. President: Order, order.

Mr. A. B. Salem *(Mattancheri)*: May I know whether this gentleman has been convicted once before?

Mr. T. K. Nayar *(Minister for Rural Development)*: I want notice.

Mr. A. B. Salem *(Mattancheri)*: May I know who wrote these words "second offence" in this answer?

Mr. T. K. Nayar *(Minister for Rural Development)*: Perhaps the officer who supplied the information.

മിസ്റ്റർ കെ. എസ്സ്. പണിക്കർ: ഈ കേസ്സ് പിൻവലിക്കുന്നതിനെ സംബന്ധിച്ച് പബ്ലിക്ക് ഹെൽത്ത് ഡയറക്ടരുടെ അഭിപ്രായം എന്തായിരുന്നു?

മിസ്റ്റർ ടി. കെ. നായർ: പബ്ലിക്ക് ഹെൽത്ത് ഡയറക്ടരുടെ അഭിപ്രായം ഏതുതരത്തിലുള്ളതായാലും ഇങ്ങിനെയുള്ള കേസുകളിൽ ഗവൺമെണ്ട് പ്രവേശിക്കരുതെന്നാണ്. ഡിപ്പാർട്ട്മെണ്ടിൽനിന്ന് ആരെ എന്തുനിലയിൽ പ്രോസിക്യൂട്ടുചെയ്താലും ആവക ന്യായാന്യായങ്ങളെന്താണെന്ന് ഗവൺമെണ്ടിന് അന്വേഷിക്കേണ്ട ആവശ്യമില്ല എന്നായിരുന്നു.

മിസ്റ്റർ കെ. എസ്സ്. പണിക്കർ: ജനങ്ങളുടെ ആരോഗ്യത്തെ ബാധിക്കുന്ന ഒരു സംഗതിയായതുകൊണ്ട് ഇതു പിൻവലിക്കാൻ പാടില്ലെന്ന് പബ്ലിക്ക് ഹെൽത്ത് സയറക്ടർ അഭിപ്രായപ്പെട്ടിട്ടുണ്ടോ?

മിസ്റ്റർ ടി. കെ. നായർ: ജനങ്ങളുടെ ആരോഗ്യത്തെ ബാധിക്കുന്ന സംഗതികളിൽ ഡയറക്ടർക്കുള്ളതിലും കൂടുതലായ ചുമതല ഗവൺമെണ്ടിനുണ്ടെന്നാണ് ഞാൻ വിശ്വസിക്കുന്നത്.

LIBRARY ARCHIVES Kerala Legislative Assembly

മിസ്റ്റർ കെ. എസ്സ്. പണിക്കർ: ഡയറക്ടരെ നിയമിച്ചിട്ടുള്ളതു ഗവമ്മെണ്ടല്ലേ?

മിസ്റ്റർ ടി. കെ. നായർ: അതെ.

മിസ്റ്റർ കെ. എസ്സ്. പണിക്കർ: ഡയറക്ടരുടെ അഭിപ്രായം ശരിയായിട്ടുള്ളതല്ലെ?

മിസ്റ്റർ ടി. കെ. നായർ: എല്ലാ കാര്യത്തിലും ഡയറക്ടരുടെ അഭിപ്രായം ശരിയാണെന്നു വകവെച്ചുകൊടുക്കുന്ന ഒരു ഗവമ്മെണ്ടല്ല ഇന്നുള്ളതു്.

മിസ്റ്റർ സി. വി. ഇയ്യു: ഈ വിഷയത്തിൽ വേറെ ഒരു രാജ്യത്തുള്ള പബ്ലിക്ക് ഹെൽത്ത് ഡയറക്ടരോടു് അഭിപ്രായം ചോദിക്കുവാൻ ഇനിയെങ്കിലും ഗവമ്മെണ്ടിനു ദയവുണ്ടാകുമോ?

മിസ്റ്റർ ടി. കെ. നായർ: വേണമെന്നുണ്ടെങ്കിൽ എക്സ്പട്ട് ഒപ്പീനിയൻ വരുത്തുവാനും ഗവമ്മെണ്ടിനു വിരോധമില്ല.

മിസ്റ്റർ കെ. എസ്സ്. പണിക്കർ: ഈ കേസ് പിൻവലിക്കുവാനായിട്ടു വല്ല പ്രസ്സെന്റേഷനും ഉണ്ടായിരുന്നുവോ?

മിസ്റ്റർ ടി. കെ. നായർ: സ്റ്റാമ്പ് ഒട്ടിച്ച ഹർജികളുണ്ടായിരുന്നു. പ്രസന്റേഷനൊന്നും ഉണ്ടായിട്ടില്ല.

4. Mr. A. Eachara Menon *(Chittur-Rural):* Will Government be pleased to state.—

1. was there a case recently preferred by the Trichur Municipality regarding the adulteration of ghee;
2. if so what has become of it;
3. is it a fact that the case was withdrawn on the order of the Government of Cochin, Ministry for Rural Development;
4. are the Municipalities included among the transferred subjects;
5. was this suit filed under the orders of the Municipality;
6. has the Commissioner power to withdraw the case without the consent of the Municipal Council;
7. has the Commissioner power to spend the Municipal money without the consent of the Council?

Mr. T. K. Nayar *(Minister for Rural Development):*

1. Yes.
2. It was withdrawn.
3. Yes.
4. No.
5. No.
6. Yes.
7. The Commissioner has power to spend the Municipal money subject to the conditions provided in the Municipal Act and rules thereunder and the Municipal Account Code for all items of expenditure included in the budget which is sanctioned by the Council and Government. For all items of expenditure not provided for in the budget, Council sanction has to be taken.

Mr. A. Eachara Menon *(Chittur-Rural):* Has the executive authority power to spend all that is provided for in the Budget behind the Council?

Mr. M. Sivarama Menon *(Advocate-General):* His powers are limited up to Rs. 200. If the amonnt exceeds Rs. 200 he has to obtain the Council's sanction. The last section is to the effect that all the provisions of the Food Adulteration Act will be supplementary to the Municipal Act.

Mr. A. Eachara Menon *(Chittur-Rural):* Has the executive authority power to spend all that is provided for in the budget. Here it is said "for all items of expenditure not provided for in the budget, Council sanction has to be taken". I want to know whether the executive authority has power to spend all that is provided for in the budget.

Mr. M. Sivarama Menon *(Advocate-General):* There are certain limits placed under the rules. Up to Rs. 200 he has power to spend. Beyond that he must take the sanction of the Council.

5. Mr. C. V. Iyyu *(Kunnamkulam):* Will Government be pleased to state whether the report contained in "Deepam" of 1st March 1944 is a correct record of the Hon'ble Minister's statement to the Press on 26th February 1944?

Mr. T. K. Nayar *(Minister for Rural Development):* It is the substance of the Minister's talk to the Press representatives.

LIBRARY ARCHIVES Kerala Legislative Assembly